

August 19, 2004

Augusto Maxwell
Akerman Senterfitt
1 S.E. Third Avenue
28th Floor
Miami, FL 33131

RE: REQUEST FOR ADVISORY OPINION 04-150

Dear Mr. Maxwell:

The Commission on Ethics and Public Trust considered your client's request for an advisory opinion at its meeting on August 18, 2004 and rendered its opinion based on the facts stated in her letter.

Melanie Adams requested an opinion regarding any conflicts between her position and her husband's position as general contractor.

In Adams' letter, she advised the Commission that she works in the Fire Engineering bureau of the Fire Prevention Division. Adams serves as a backup to the Bureau Officer in Charge by attending meetings and resolving disputes related to disapprovals of fire plans. Adams' primary responsibility is working on the plan approval integration project between the Fire Department and the Building Department.

Adams' husband is a general contractor who assists clients in the permit approval process. Some of the permits require plans processing through the fire engineering process. Adams does not participate in plan review or resolution of disputes regarding

her husband's clients. Additionally, fire department guidelines require a fire inspection at the site after the plans review process. Finally, the Fire Department tracks every plan and reviewer.

The Commission found the Conflict of Interest and Code of Ethics ordinance permits Adams to stay in her present position as long as she does not take any actions that affect her husband's business or her husband's clients. Section 2-11.1 (n) prohibits employees from taking any action involving the business of a relative. Section 2-11.1(n) provides that "no person included in the term defined in subsection (b)(1) through (b)(6) shall participate in any official action directly or indirectly affecting a business in which he or she or a member of his or her immediate family has a financial interest."

Therefore, Adams is prohibited from reviewing plans or resolving disputes involving her husband or her husband's clients. However, Adams may continue with her current responsibilities with the Fire Rescue Department as long as the Fire Department vigorously maintains the current firewalls and regularly monitors the approval process to ensure that Adams does not take any action related to her husband or his clients.

Further, Section 2-11.1(g (exploitation of official position) prohibits Adams from using her position to secure any special privileges or benefits for her husband or his clients and Section 2-11.1(h) (prohibition on use of confidential information) prohibits Adams from disclosing any confidential information to her husband or his clients.

Accordingly, Adams may stay in her current position as long as the Fire Department vigorously maintains the current firewalls to ensure that Adams is not involved in any decision affecting her husband's business or his clients. Section 2-11.1(n) prohibits

employees from taking any action that will accrue to the financial benefit of the employee or an immediate family member. Adams is also prohibited from using her official position to aid her husband or his clients or disclosing any confidential information.

This opinion construes the Miami-Dade Conflict of Interest and Code of Ethics ordinance only and is not applicable to any conflict under state law. Please contact the State of Florida Commission on Ethics if you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please call the undersigned at (305) 579-2594 or Ardyth Walker, Staff General Counsel at (305) 350-0616.

Sincerely Yours,

ROBERT MEYERS
Executive Director